

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SSGT JASON A. ADKINS, USAF,

Plaintiff,

V.

Civ. Act. No. 04-1453-JJF

DONALD H. RUMSFELD, Sec. of Defense;

JAMES G. ROCHE, Secretary of the

Air Force; GEN. JOHN W. HANDY,

Commander Air Mobility Command, COL.

JOHN I. PRAY, JR., 436th Air Wing

Commander, in their official capacities,

Defendants.

[JOINT PROPOSED] RULE 16 SCHEDULING ORDER

The parties, having satisfied their obligations under Fed. R. Civ. P. 26(f), **IT IS**

HEREBY ORDERED:

1. Amended Complaint and Answer. Plaintiff filed the Second Amended Complaint pursuant to the Court's August 24, 2006 opinion. Defendants filed an answer to the Second Amended Complaint on September 22, 2006.

2. Pre Discovery Disclosures. The parties will exchange the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2 on the issues on which the Court has permitted discovery no later than February 7, 2007.

3. Discovery.

(a) The discovery period shall start on February 1, 2007 and run through August 31, 2007, unless otherwise agreed to by the parties or ordered by the court.

(b) The exchange of interrogatories and requests for document production shall be served no later than June 15, 2007. Requests for Admission can be served up through August 1, 2007.

(c) The maximum number of interrogatories that can be served by each party to any other party shall be thirty (30), unless otherwise agreed in writing by the parties or otherwise ordered by the Court.

(d) The maximum number of requests for admission that can be served by each party to any other party shall be thirty (30), unless otherwise agreed in writing by the parties or otherwise ordered by the Court.

(e) The maximum number of fact deposition that can be taken are ten (10) depositions by plaintiffs and five (5) depositions by defendants, unless otherwise agreed in writing by the parties or otherwise ordered by the Court. Deposition of fact witnesses shall begin no earlier than 60 days from the start of the discovery period unless otherwise agreed in writing by the parties or otherwise ordered by the Court.

(f) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2), if any, will be served to the parties on June 15, 2007. Response or rebuttal reports will be served on August 1, 2007.

(g) Any party desiring to depose an expert witness shall notice and complete said deposition no later than August 31, 2007.

(h) Interim discovery deadlines covered by this Order can be adjusted by mutual agreement of the parties so long as the overall time period for discovery is not increased.

4. Discovery Disputes.

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) business days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf_civil@ded.uscourts.gov, that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

(f) Prior to filing any motion, the parties shall confer in an effort to resolve any such dispute.

5. Amendment of the Pleadings. All motions to amend the pleadings shall be filed on or before the tenth (10) day after the close of discovery. Defendants reserve the right to oppose any such motion.

6. Case Dispositive Motions. Any case dispositive motions, pursuant to the Federal

Rules of Civil Procedure, shall be served and filed with an opening brief within 60 (sixty) days after the close of the discovery period. Responses to case dispositive motions shall be due twenty (20) calendar days from the filing of the motion with court, and any reply to such a response shall be due within fourteen (14) calendar days of the filing of the response. No case dispositive motion may be filed more than ten (10) days from the dates specified in the first sentence of this paragraph without leave of the Court or agreement of the parties if both parties agree that no further discovery is necessary.

7. Applications by Motion.

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency and must courtesy copy the other party.

8. Pretrial Conference and Trial. After ruling on dispositive motions and if still needed, the Court will schedule a Pretrial Conference. At this Pretrial Conference, the Court will

establish a schedule for pre-trial submissions and the trial itself. In addition, due to the limited nature of discovery permitted by this Court, Plaintiff reserves the right to seek additional discovery should the matter survive beyond summary judgment, and defendants reserve the right to oppose any such request. The parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

Dated: _____

JOSEPH J. FARNAN, JR.
United States District Judge